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TAGS: [KTFN](#) [PTER](#) [EFIN](#) [ETTC](#) [TU](#)
SUBJECT: [TURKEY](#): NO PROGRESS ON TERRORISM FINANCE

REF: ANKARA 5440 AND PREVIOUS

Classified By: Deputy Chief of Mission Nancy McEldowney for reasons 1.4
(b) and (d).

11. (C) Summary: More than a year after Treasury Under Secretary Levey's June 2005 visit, Turkey has made negligible

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progress strengthening its regime against terrorism finance and in some respects is backsliding. Although terrorism finance is now criminalized, the definition of terrorism remains narrowly Turkocentric, and the assets of a UN-designated terrorist financier are likely to be unfrozen. Turkish leaders are not motivated to make terrorism finance a political priority and fail to see how terrorism finance mechanisms will help them fight the PKK. Key ruling party politicians also seem to harbor sympathies for certain Middle Eastern Islamists who are targeted by the international community's fight against terrorism finance. Only a combination of external pressure, embarrassment at the political level and sustained engagement at the technical level is likely to lead to a stronger CTF regime in Turkey. End Summary.

Stalled Agenda on Terrorism Finance

12. (C) In June 2005, Treasury Under Secretary Stuart Levey came to Ankara to urge senior Turkish officials to strengthen Turkey's regime against terrorism financing. Having warned the Finance and Justice Ministers, among others, that Turkey's laws and implementation were deficient, he urged them to act quickly to avoid a negative review by the Financial Action Task Force (FATF). Treasury followed up with an exchange of letters with Turkish officials and a series of follow-up meetings in Ankara.

13. (C) Fifteen months later, with the FATF team having visited Ankara and now writing up their report in preparation for a March 2007 formal review in Paris, it is striking how little the Turkish Government has accomplished, failing even to fulfill the relatively limited promises made by Finance Minister Unakitan in his August 2005 reply to Under Secretary Levey. On balance, Turkey may even have slid backwards on its overall regime. Here's how it racks up:

--MASAK law: Since 2003, the centerpiece of the Turkish effort to bring its AML/CTF regime in line with international norms has been a draft law to reorganize its financial

intelligence unit (FIU), MASAK. The legislation would broaden the kinds of entities subject to know-your-customer rules and required to file suspicious activity reports (SARs). Importantly, it provides "safe harbor" immunity from prosecution for filers of SARs. Despite the Finance Minister's verbal and written assurances that passage of the law was a priority, it was not submitted to parliament until November 2005, and parliament recessed in June 2006 without having passed it. The director of MASAK informed us that his review of the incoming Parliament's agenda did not find a reference to the law, although he claims Minister Unakitan is committed to its passage.

--Definition of terrorism: Turkish law defines terrorism as attacks against Turkish citizens or the Turkish state. Despite a Turkish interagency team's recommendation to broaden the definition to include international terrorism -- and Minister Unakitan's specific promise to Levey that this would happen -- the ruling Justice and Development (AK) Party decided to leave the definition unchanged when it submitted to parliament a package of amendments to Turkey's terrorism statute in spring 2006. In response to our vigorous objections, the Turkish Justice Ministry continues to argue that no change is required because a) there is no international consensus on the definition of terrorism and b) Turkey has the tools to extradite people accused of crimes in other countries. The revised terrorism law did, however, explicitly criminalize terrorism finance, albeit within the old, narrow definition of terrorism.

--The legal basis for freezing terrorist assets: U/S Levey's raised the weakness of the legal regime by which Turkey freezes the assets of UN-designated terrorist financiers by decision of the Council of Ministers. Turkish authorities have made no attempt to strengthen the legal basis for implementation of 1267 designations or to develop a legal mechanism for independently designating terrorist financiers and freezing their assets. As Levey pointed out in his letter, these gaps are vulnerable to legal challenge. Sure enough, on July 20, 2006 a Turkish administrative court (Danistay) held that the Council of Ministers decree freezing the assets of UN-designated financier Yasin al-Qadi was invalid. Among other justifications, the court asserted that the Council of Ministers lacked authority to impinge on property rights. The Turkish MFA and Prime Ministry initially appealed the Danistay decision, but recently withdrew the appeal at the instruction of the Prime Minister, who apparently believes al-Qadi's contention that he has done nothing wrong. If al-Qadi's assets are released, those of Nasreddin, another 1267-listed financier are also likely to be unfrozen.

--Alternative Remittance Systems: Another point raised in the Levey letter is the use of Alternative Remittance Systems. Though illegal in Turkey, we understand they are used and the Turkish authorities have shown no interest in cracking down on these remittance systems. One of the provisions of the draft MASAK law would require gold and currency exchanges to file SARs.

--Interagency cooperation: Turkish officials officially deny problems with interagency coordination, but admit privately that this is a weakness. There is anecdotal evidence there may have been some slight improvement on this score, helped along by the USG (DOJ's OPDAT and the FBI) having held a series of seminars grouping police, prosecutors and MASAK officials in seminars using AML/CTF case studies. The Turkish National Police have established a unit specifically focused on terrorism finance which should improve interagency cooperation on the issue as well as creating a focal point within TNP which can build expertise. We are not aware, however, of any institutionalized, functioning interagency mechanism. Nor have there been prosecutions on money-laundering, let alone terrorism finance, that would suggest close cooperation among police, prosecutors and MASAK.

--Lack of a policy-making body: No policy-making body within

the Turkish government has clear responsibility and authority for financial security issues. By default, MASAK, the FIU, has assumed this role and is Turkey's lead in FATF but as an operational body it does not have the vision or mandate to deal with legislative or broad coordination issues. The MFA does not have sufficient expertise or interagency clout although it does have the ability to convene interagency meetings with foreign officials. This creates a vacuum for discussions when Ministers are not adequately prepared and don't have authority to make commitments on issues that require action by other agencies.

Why the Sorry Track Record?

¶4. (C) All of this begs the question why the Turkish Government has such a sorry track record. We believe multiple factors cause Turkish leaders not to view countering of terrorism finance as a priority. First, the past few years have been an extraordinary period of legislative reform for Turkey, with multiple, far-reaching reforms most of which are either EU- or IFI-related.

¶5. (C) The CTF effort is viewed as yet another externally-imposed agenda that is not perceived as central to Turkish interests. Despite the horrific November 2003 Istanbul bombings, Turks of many political stripes tend to see al-Qaeda as primarily the West's problem, and focus much more on homegrown terrorist groups that continue to kill Turks: the PKK, but also leftist terrorists like DHKP-C. This attitude is compounded in the case of some politicians in the ruling AK Party by their ties to -- and sympathies with -- Middle Eastern Islamists (such as al-Qadi). This is the most plausible explanation for the AKP's readiness to expose itself to international opprobrium by overruling bureaucratic recommendations and past promises (like Minister Unakitan's to Levey).

¶6. (C) Both Turkish political leaders and bureaucrats have also failed to grasp how a strong regime against terrorism finance could help the fight against PKK. On the one hand, through strong international anti-terrorism cooperation, Turkish leaders would be on stronger ground demanding the same robust cooperation from other countries against PKK. On a more technical level, a stronger regime against terrorism finance would provide additional tools. MASAK has not used the Egmont Group network of FIU's to solicit information from European FIU's about financial transactions by PKK front groups. Likewise, Turkey has made no effort to establish a domestic designations system as a basis to press other countries to crack down on PKK operatives.

¶7. (C) Professional bureaucrats are not blameless in Turkish sluggishness on AML/CTF. Police and prosecutors in Turkey lack a strong culture or technical expertise in "following the money." Moreover, MASAK is a relatively recent creation (1996) and has yet to build a strong reputation in the Turkish state apparatus or meaningful bureaucratic clout. MASAK jealously monopolizes Turkey's dealings with FATF yet fails to participate in FATF's terror finance working group. Moreover, the President of MASAK, Genc Osman Yarasli, is an AK Party appointee with a sufficiently Islamist background that President Sezer -- a staunch secularist -- still refuses to confirm his appointment three years on.

¶8. (C) Many Turkish officials, including senior Justice Ministry lawyers as well as the Director of MASAK himself, are skeptical about the legal basis of international community's approach to AML/CTF issues. They have doubts about how asset freezes can be reconciled with due process and human rights, and how protections can be established against abuse of executive power (which in Turkey has a history of being abused). They assert that asset freezes amount to deprivation of property rights, which can only be accomplished by a judicial ruling. On the other hand, Foreign Ministry officials have tended to be the most supportive of the international community's approach to

these issues.

How to Move Forward

19. (C) Only external pressure and international embarrassment at the political level will drive Turkish action on terrorism finance. Since the problem seems centered on the Prime Minister's inner circle, the issue needs to be elevated such that senior USG and other officials raise terrorism finance with senior politicians in Turkey and their close advisors. Our efforts will be more effective if the pressure comes not only from the U.S. but from the EU, the UN, and FATF. At the same time, at the more technical level we need sustained engagement, both with training and with more frequent visits from USG officials responsible for AML/CTF issues. The recent assignment of a Resident Legal Advisor to Ankara will help with technical level engagement, especially training. But it is no substitute for sustained engagement by Washington-based officials on the overall policy. Finally, we need to do a better job getting across the point that a stronger AML/CTF regime and more effective cooperation against Islamic terrorist finance groups will help Turkey's drive to elicit stronger cooperation in the West against the PKK.

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